

## A CASE COMMENTARY ON PRAGYA PRASUN & ORS. & ORS. V. UNION OF INDIA & AMAR JAIN V. UNION OF INDIA & ORS.

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### INTRODUCTION | BACKGROUND OF THE CASE

<sup>630</sup>The Issue involved regarding digital rights to the disable people of this country, two writ petitions are been filed with common and similar properties of injustice, Digital Indian aim to promote efficiency, transparency and accessibility through digital means. Centre of this transformation has been the creation of a robust digital infrastructure. However, with wave of digital progress, there remains overlooked aspect that demand urgent attention ensuring the digital infrastructure and services are accessible to all? Including person with disability and other marginalised groups. We can called Technical Inclusion a true progress when all the people are treated inclusively and have the same accessibility and ease and thereby foster an environment where no individual is left behind. There is a digital divide created, In the contemporary era, access to essential services, governance, education, healthcare and economic opportunities is increasingly mediated through digital platforms. Right to life under <sup>631</sup>**Article 21 of the Constitution of Indian** has to be reinterpreted in light of these technological realities and especially abled persons also have the same right to access Article 21 as and other person with no disability “Justice Mahadevan pointed out this”.

A dedicated act <sup>632</sup>“**Rights of Person with Disability Act, 2016**” is a landmark legislation that aim to provide comprehensive legal protection and entitlement to person with disabilities. It Algies with the **United Nation Convention on the Right of Person with Disability (UNCRPD)**. This Act expands and definition of disability, increase the types of recognition, focus on ensuring equality, non-discrimination and full participation of person with disabilities in the society and work for there development and equal representation and protection came in force on April 19, 2017. **Under Section 12** this act, the act addresses challenges faced by person with disabilities in accessing the justice system, person with disabilities have the right to access any court or anybody with judicial and quasi-judicial or investigative power without discrimination and step will be taken to provide suitable measures to support person with disabilities. This Act ensures that all persons with disabilities can lead their lives with dignity, without discrimination and with equal opportunities.

<sup>630</sup> **Pragya Prasun v. Union of India**, W.P. No. 31291 of 2023, ¶ 20 (Madras HC Apr. 30, 2025), <https://indiankanoon.org/docfragment/68332080/>.

<sup>631</sup> **SCO Team**, *The Right to Life and Personal Liberty Under Article 21: A Timeline*, *Sup. Ct. Observer* (June 26, 2025), <https://www.scobserver.in/journal/the-right-to-life-and-personal-liberty-under-article-21-a-timeline/>

<sup>632</sup> **National Human Rights Commission**, *Disability Rights: Overview and Analysis*, <https://nhrc.nic.in/sites/default/files/DisabilityRights.pdf> (last visited July 14, 2025).

**CASE NO. SAV**

WRIT PETITION (CIVIL) NO. 289 OF 2024 & WRIT PETITION (CIVIL) NO. 49 OF 2025, decided on 30 April, 2025.

**ADVOCATES.**

Mr. Sidharth Luthra, Sr. Adv, Ms. Nimisha Memon, Adv, Ms. Yamina Rizvi, Adv, Ms. Ishita Soni, Adv, Ms. Pranya Madan, Adv, Mr. Samarth Luthra, Adv, Mr. Anmol Kheta, Adv., Ms. Pradyumna Kaishta, Adv., Ms. Anshala Verma, Adv., Ms. Anshala Verma, Adv., Mr. Nitin Saluja, AOR for the **Peti side** and Mr. Ramesh Babu M. R., AOR, Ms. Manish Singh, Adv., Ms. Nisha Sharma, Adv., Ms. Jagriti Bharti, Adv., Ms. Rohan Shrivastava, Adv., Ms. Tanya Chowdhary, Adv., Ms. Ankur Sood, AOR for **Respondent side**.

**FACTS OF THE CASE**

The petitioner in *W.P(C) No.289 of 24* are acid attack victim, who suffer from facial disfigurement and severe eye burns, the petitioner in *W.P(C) No.49 of 2025* is suffering from 100% blindness. These writ petition have been filed seeking directions to the various respondent to formulate appropriate rules and guideline for conduction Digital KYC / e-KYC / Video KYC process through alternative method, with a view to ensuring that the process is more inclusive and accessible to all person with disabilities-particularly acid attack survivors suffering from permanent facial, eye disfigurement and similarity placed individuals, including <sup>633</sup>persons with disability Act,2016 and Article 21 of the Constitution of India. The writ petitions further seek to ensure that adequate measures are undertaken to guarantee accessibility and provide reasonable accommodations for persons with disabilities, in accessing financing services, telecommunication, and government schemes.

**Observation of Hon'ble Justice J.B Pardiwala and Hon'ble R. Mahedevan**

A bench of both the Hon'ble Justices said that the state has an obligation to provide an inclusive environment, inclusive digital ecosystem to the marginalised, underprivileges, vulnerable, disable and historically excluded section of the society. It also issued twenty (20) directions to the government to improve "Know Your Customer (KYC)" processes, to make the more accessible. A wave of digital progress in India through Aadhaar, online Banking, other service delivery platform, a crucial aspect often overlooked is whether this technology is truly inclusive and accessible to all, the court said the Hon'ble Bench the right to digital access emerge as an instinctive compound of the right to life and liberty, necessitating the state to proactively design and implement inclusive digital ecosystem to serve not only the privileged, but also the marginalised and those who have been historically excluded. <sup>634</sup>The petitioner said that the mandatory requirement of providing that the customer is alive under to RBI-Regulation process can only be fulfilled when he/she blinks before the camera. The bank later made an exception for the petitioner following an uproar on social media. Petitioner Pragya Prasun said many acid attack survivors like her face similar issues and sought directions to the Centre to issue fresh guidelines on how such people can get through the KYC process. As already pointed out, person with disabilities encounter unique barriers in accessing online services due to the lack of accessible websites, applications and assistive technologies. Similarly, individuals in remote or rural areas often face poor connectivity limited digital literacy, and a scarcity of content in regional languages effectively denying them meaningful access to e-governance and welfare delivery system said by Hon'ble Justice. The supreme court, in the direction issued a series of directions to combat the abnormalities or roadblock faced by the differently abled while accessing digital services. The comes

<sup>633</sup> National Human Rights Commission, *Disability Rights: Overview and Analysis*, <https://nhrc.nic.in/sites/default/files/DisabilityRights.pdf> (last visited July 14, 2025).

<sup>634</sup> In Landmark Order, Supreme Court Says Digital Access a Fundamental Right, NDTV (Apr. 30, 2025), <https://www.ndtv.com/india-news/in-landmark-order-supreme-court-says-digital-access-a-fundamental-right-8292719>.

forward as a step by the court in ensuring fairness, (i) Mandate for revision of the procedure and e-KYC Norms. Regulatory bodies such as a Reserve Bank of India and other should revise and formulate inclusive measures and accommodate the differently abled (ii) Extension of OTP duration to accommodate individuals with visual impairment. (iii) Alternative verification method to be developed for the KYC process. This would act as an inclusive replacement for verifying “liveness” as required in those procedures. Manual verification, paper-based KYC, and voice-based authentication can be an alternative. (iv) Government portals and other services platform to comply with the Web Content Accessibility Guidelines (WCAG). (v) Support to be provided in regional languages – This would be a big help for people who are vested only in a regional language or belong to linguistic minority group. (vi) Training bank government personnel in assisting the differently abled. (vii) Nodal officers to be appointed to check compliance with digital accessibility requirement.

CONSTITUTION ASPECT – When times change technology also updated and everything is directly and indirectly connected to technology. This shift will make life difficult for people who are bereft of access to the internet or are digitally illiterate. The Supreme Court of India in <sup>635</sup> **Anuradha Bhasin v. Union of India** declared the right to internet as a fundamental right under **Article 21 of Indian Constitution** and in <sup>636</sup> **Rajive Raturi v. Union of India** recognised the right to access services and opportunities as a fundamental right part of Article 21.

#### **ANALYSIS | ARGUMENTS:**

While both the petitioners are suffering from disability through writ petition they seek directions to the various respondent to formulate appropriate rules and regulation for conduction Digital-KYC / e-KYC / Video process

to also include the personal with disability and reduce the discrimination among the society in accordance with the Right to Person with Disability Act, 2016. The petitioner seeks directions from central government to frame fresh guidelines for providing alternative method or means to conduct the Digital KYC for acid attack survivors or similarly placed individuals. The petitioner also seeks direction from the central government to frame appropriate provision to clarify the meaning and interpretation of *live photograph* as mentioned in under the Annexure I of the RBI – KYC Master Direction, 2016 and petitioner ask to form alternative measures to satisfying of *live photograph*. The directions are also provided to RBI, SEBI, TRAI the petitioner also argued that they found it very difficult to or almost impossible to obtain a sim card or open a simple saving account in nationalised banks. Elaborating further, it is submitted by the learned counsel the clicking a selfie, face recognition, signing with a pen or digital signature, verification of OTP within 30 second, these methods are not accessible for a person who is suffering from disability and cannot comply with the procedure without adequate guidance and other person physical assistance. The petitioner counsel also placed reliance on catena of decision viz., <sup>637</sup> **Vikas kumar v. Union Public Service Commission, Rajive Raturi v, Union of India**. Ultimately, the learned counsel for the petitioner submitted that considering the difficulties and barriers faced by the disabled people’s court should pass appropriate direction to respondent authorities.

RESPONDENT ARGUMENTS– Respondent No-2 Reserve Bank of India submitted that the Central Government with an intention to prevent money laundering and to combat and prevent channelizing of illegal activities, terror funding and other economic crimes, Banking Companies and Financial Institution have to check their clients identity and while identifying Aadhar, use of passport and other relevant

<sup>635</sup> **Amar Jain v. Union of India**, W.P. (C) No. 983 of 2023, ¶ [pinpoint] (Delhi HC Mar. 20, 2025), <https://indiankanoon.org/doc/82461587/>

<sup>636</sup> **Rajive Raturi v. Union of India**, W.P. (C) No. 243 of 2005, ¶ [pinpoint] (Delhi HC Dec. 16, 2016), <https://indiankanoon.org/doc/98908321/>.

<sup>637</sup> **Vikas Kumar v. Union of India**, W.P. (C) No. 1975 of 2022, ¶ [pinpoint] (Delhi HC Jan. 5, 2023), <https://indiankanoon.org/doc/157396742/>.

documents and process must be complied with verification, regulation 2(j) of the Aadhar (Authentication) Regulation, 2016 e-KYC authentication means a type of authentication facility in which the biometric information and or OTP along with Aadhar number securely submitted with the consent of the Aadhar number holder. The reporting Entities must ensure that the *live photograph* of the customer is taken by the authorised officer and the same photograph is embedded in the Customer Application Form (CAF). According to Respondent No. 4 Telecom Regulation Authority of India (TRAI) it is submitted that TRAI draws its power and functions from the Telecom Regulation Authority of India Act, 1979 and the rules and regulation framed thereunder. It has no statutory role in the formation or implementation of Digital KYC / e- KYC guidelines so according to TRAI lacks jurisdiction or authority to frame any policy or issue directions regarding to Digital KYC / e-KYC. Respondent No.5 – Department of Telecommunications, it is submitted that the Central Government grants licenses under Section 4 of the Indian Telegraph Act, 1885, for various types of telecom services including Access Services, Internet Services, etc. Access Services cover collection, carriage, transmission and delivery of voice and/or non-voice messages over licensee's network in the designated service area, and includes mobile, wireline and internet services. An Internet Service Provider provides data services.

## CONCLUSION

The Constitution of India, through its Preamble, Fundamental Rights, and Directive Principles along side disability statutes, obligate the state to adopt laws and to make policies to promote equality and to provide equal opportunity to all the citizens of the country, advancing these guarantee and given effect to the Convention on the Right of Person with Disabilities Act, 2016 which providing equal footing to disable people

in the society,<sup>638</sup>crucially section 42 of RPwD Act, 2016, mandates government to ensure that all audio, print, and electronic media are accessible, and include audio description, sign language interpretation and caption and that everyday electronic goods and equipment follow 'universal-design principle. The court issued twenty directives in order to make technology assessable these included the implementation of accessibility standards across all platforms, the availability of paper – based and offline KYC alternatives, the acceptance of thump impression as signature and the removal of restrictive definition of liveness. Reserve Bank of India, Security and Exchange Board of India and the Department of Telecommunication are tasked with conducting accessibility audit, revising their current operational procedure, and providing human assistance and support system for person with disability while pronouncing this judgement Supreme Court of India include Right to Digital Access a Fundamental Right under Article 21.

“At this juncture, we may also wish to observe that in the contemporary era, where access to essential services, governance, education, healthcare, and economic opportunities is increasingly mediated through digital platforms, the right to life under Article 21 of the Constitution must be reinterpreted in light of these technological realities. The digital divide – characterized by unequal access to digital infrastructure, skills, and content – continues to perpetuate systemic exclusion, not only of persons with disabilities, but also of large sections of rural populations, senior citizens, economically weaker communities, and linguistic minorities. Articles 14,15 and 38 of the Constitution – must encompass the responsibility to ensure that digital infrastructure, government portals, online learning platforms, and financial technologies are universally accessible, inclusive and responsive to the needs of all vulnerable and

<sup>638</sup> The Rights of Persons with Disabilities Act, 2016, No. 49, Acts of Parliament, 2016 (India), [https://www.indiacode.nic.in/bitstream/123456789/15939/1/the\\_rights\\_of\\_persons\\_with\\_disabilities\\_act%2C\\_2016.pdf](https://www.indiacode.nic.in/bitstream/123456789/15939/1/the_rights_of_persons_with_disabilities_act%2C_2016.pdf).



marginalized populations. Bridging the digital divide is no longer merely a matter of policy discretion but has become a constitutional imperative to secure a life of dignity, autonomy and equal participation in public life.

